

Assembly Bill No. 2351

CHAPTER 355

An act to amend Section 31641.2 of, and to add Sections 20899.5, 23007.5, 31640.7, 34095, 45309.5, and 50033 to, the Government Code, relating to retirement.

[Approved by Governor September 20, 2006. Filed with
Secretary of State September 20, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2351, Maze. Retirement: elected public officers: service credit.

Existing law provides for the creation and regulation of cities, counties, and cities and counties. Existing law permits these agencies to form retirement and pension systems, and also permits these agencies to become contracting members of the Public Employees' Retirement System. The Public Employees' Retirement System and the County Employees Retirement Law of 1937 permit certain members, under specified circumstances, to elect to receive additional service credit upon making required contributions. In this regard, the County Employees Retirement Law of 1937 permits a governing body to make portions of the required contributions on behalf of officers and employees.

This bill would prohibit the governing body of a city, county, or a city and county from granting credit for service to an elected officer or member for service that the elected officer or member has not performed. The bill would further prohibit these governing bodies from paying contributions for credit for service if an elected officer or member has not performed the service, as specified. This bill would permit an elected officer to purchase additional service credit at his or her own expense, as specified. The bill would also make conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 20899.5 is added to the Government Code, to read:

20899.5. (a) An elective officer of a contracting agency that is a city, county, or city and county shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 23007.5, 34095, or 50033.

(b) Nothing in this section shall prohibit an elective officer from purchasing service credit pursuant to Section 20909.

SEC. 2. Section 23007.5 is added to the Government Code, to read:

23007.5. (a) Notwithstanding any other provision of law:

(1) A county shall not grant credit for service to an elective officer or member of the board of supervisors for service that the elective officer or member has not performed.

(2) A county shall not pay contributions for credit for service if an elective officer or member has not performed the service, regardless of the fact that the elective officer or member of the board of supervisors may personally elect to contribute for additional credit for service.

(b) The prohibition provided by this section does not preclude an elective officer or member of the board of supervisors from choosing to receive credit for service in a retirement system by paying his or her own contributions for that purpose pursuant to the applicable provisions of the retirement system.

SEC. 3. Section 31640.7 is added to the Government Code, to read:

31640.7. (a) A member of a retirement system shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 23007.5 or 50033.

(b) Nothing in this section shall prohibit an elective officer from purchasing service credit pursuant to Section 31658.

SEC. 4. Section 31641.2 of the Government Code is amended to read:

31641.2. Any member of the retirement system who elects pursuant to Section 31641.1 to make contributions and receive credit as service for time for which he or she claims credit because of public service shall contribute to the retirement fund, prior to the effective date of his or her retirement, by lump sum payment or by installment payments over a period not to exceed five years, an amount equal to the sum of:

(a) Twice the contributions he or she would have made to the retirement fund if he or she had been a member during the same length of time as that for which he or she has elected to receive credit as service, computed by applying the rate of contribution first applicable to him or her upon commencement of his or her membership in this system to the monthly compensation first earnable by him or her at the time as provided in Section 31641.3, multiplied by the number of months for which he or she has elected to receive credit for county service, including time, if any, prior to the establishment of the system, and which will constitute current service under this system.

(b) The “regular interest” that would have accrued to the member contributions if they had been made on the date used to determine on what earnable compensation contributions pursuant to this section shall be based, from that date until the completion of payment of those contributions, computed at the current interest rate.

(c) Except as prohibited by Section 31640.7, the governing body by a four-fifths vote may provide that it shall make on behalf of officers and employees eligible to receive credit for prior service under this chapter, and who so elect prior to filing an application for retirement, part of the contributions specified in paragraphs (a) and (b) of this section. The contributions made by a governmental agency pursuant to this section shall be available only for purposes of retirement for service or for

disability and a member resigning from county service shall be entitled to withdraw only that portion of his or her accumulated contributions made by him or her.

SEC. 5. Section 34095 is added to the Government Code, to read:

34095. (a) Notwithstanding any other provision of law:

(1) The legislative body of a city shall not grant credit for service to an elective officer for service that the elective officer has not performed.

(2) The legislative body of a city shall not pay contributions for credit for service if an elective officer has not performed the service, regardless of the fact that the elected officer may personally elect to contribute for additional credit for service.

(b) The prohibition provided by this section does not preclude an elective officer from choosing to receive credit for service in a retirement system by paying his or her own contributions for that purpose pursuant to the applicable provisions of the retirement system.

SEC. 6. Section 45309.5 is added to the Government Code, to read:

45309.5. A member of a pension or retirement system established pursuant to this chapter shall not receive credit for service or contributions for credit for service in violation of the prohibitions provided in Section 34095 or Section 50033.

SEC. 7. Section 50033 is added to the Government Code, to read:

50033. (a) Notwithstanding any other provision of law:

(1) The legislative body of a city, county, or city and county shall not grant credit for service to an elective officer for service that the elective officer has not performed.

(2) The legislative body of a city, county, or city and county shall not pay contributions for credit for service if an elective officer has not performed the service, regardless of the fact that the elected officer may personally elect to contribute for additional credit for service.

(b) The prohibition provided by this section does not preclude an elective officer from choosing to receive credit for service in a retirement system by paying his or her own contributions for that purpose pursuant to the applicable provisions of the retirement system.